United Nations PCNICC/1999/L.5/Rev.1

Preparatory Commission for the International Criminal Court

Distr.: Limited
22 December 1999
English
Original: Arabic/English

New York
16-26 February 1999
26 July-13 August 1999
29 November-17 December 1999

Proceedings of the Preparatory Commission at its first, second and third sessions (16-26 February, 26 July-13 August and 29 November-17 December 1999)

Contents

		Page
	Summary	2
Annexes		
I.	List of documents issued at the first, second and third sessions of the Preparatory Commission, held in 1999	5
II.	Rules of Procedure and Evidence) See PCNICC/1999/L.5/Rev.1/Add.1	26
III.	Elements of Crimes) See PCNICC/1999/L.5/Rev.1/Add.2	26
IV.	Crime of Aggression	27

00-22129 (E) 260100

Summary*

Rapporteur: Mr. Salah **Suheimat** (Jordan)

1. The Preparatory Commission for the International Criminal Court, established in accordance with resolution F adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on 17 July 1998, met at United Nations Headquarters from 16 to 26 February, 26 July to 13 August and 29 November to 17 December 1999 in accordance with General Assembly resolution 53/105 of 8 December 1998 to carry out the mandate under that resolution and, in that connection, to discuss ways to enhance the effectiveness and acceptance of the Court.

2. Under paragraph 2 of resolution F of the Conference, the Preparatory Commission shall consist of representatives of States which have signed the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court and other States which have been invited to participate in the Conference.

3. In accordance with paragraph 6 of resolution 53/105, the Secretary-General invited, as observers to the Preparatory Commission, representatives of organizations and other entities that have received a standing invitation from the General Assembly, pursuant to its relevant resolutions, to participate in the capacity of observers in its sessions and work, and also invited as observers to the Commission representatives of interested regional intergovernmental organizations and other interested international bodies, including the international tribunals for the former Yugoslavia and Rwanda.

4. Under paragraph 7 of the same resolution, non-governmental organizations may participate in the work of the Preparatory Commission by attending its plenary and its other open meetings, in accordance with the rules of procedure to be adopted by the Commission, receiving copies of the official documents and making available their materials to delegates.

5. The session was opened by the Secretary-General of the United Nations, Mr. Kofi Annan, and by the Under-Secretary-General, the Legal Counsel, Mr. Hans Corell, both of whom made statements.

6. At its 1st and 2nd meetings, on 16 and 22 February 1999, the Preparatory Commission elected its Bureau, as follows:

Chairman:

Mr. Philippe Kirsch (Canada)

Vice-Chairmen:

Mr. George Winston McKenzie (Trinidad and Tobago)
Mr. Medard R. Rwelamira (South Africa)
Mr. Muhamed Sacirbey (Bosnia and Herzegovina)

Rapporteur:

Mr. Salah Suheimat (Jordan)

7. Mr. Václav Mikulka, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary of the Preparatory Commission. Mr. Manuel Rama-Montaldo, Deputy Director of the Codification Division, acted as Deputy Secretary of the Commission and Secretary of the Working Groups on Rules of Procedure and Evidence. Ms. Mahnoush H. Arsanjani, Senior Legal Officer, acted as Secretary of the Working Group on Elements of Crimes. The following members of the Codification Division also provided substantive servicing to the Commission: Ms. Christiane Bourloyannis-Vrailas, Mr. George Korontzis, Mr. Renan Villacis and Mr. Arnold Pronto.

8. At its 1st meeting, on 16 February 1999, the Preparatory Commission adopted the following agenda (PCNICC/1999/L.1):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Implementation of resolution F of the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, adopted on 17 July 1998, and paragraph 4 of General Assembly resolution 53/105 of 8 December 1998.
6. Adoption of the report.

9. Also at its 1st meeting, the Preparatory Commission agreed that its rules of procedure were the rules of procedure of the General Assembly as applied to the Main Committees together with paragraphs 6 and 7 of General Assembly resolution 53/105.

* Incorporating documents PCNICC/1999/L.3/Rev.1, PCNICC/1999/L.4/Rev.1 and those issued in the following series: PCNICC/1999/WGEC/RT, PCNICC/1999/WGRPE(...)/RT and PCNICC/1999/WGCA/RT.

10. Taking account of the priorities set forth by resolution F of the Conference, the Preparatory Commission agreed on a work plan focusing on two essential instruments necessary for the functioning of the Court: the Rules of Procedure and Evidence, and the Elements of Crimes.

11. In order to facilitate the tasks of the Preparatory Commission, the Chairman, in consultation with the Bureau, designated the following coordinators:

- Mr. Herman von Hebel (Netherlands) for the Elements of Crimes;
- Ms. Silvia Fernandez de Gurmendi (Argentina) for the Rules of Procedure and Evidence;
- Mr. Medard R. Rwelamira (South Africa) for the Rules of Procedure and Evidence relating to Part 4 (Composition and Administration of the Court) of the Statute;
- Mr. Rolf Fife (Norway) for the Rules of Procedure and Evidence relating to Part 7 (Penalties) of the Statute;
- Mr. Phakiso Mochochoko (Lesotho) for the Rules of Procedure and Evidence relating to Part 9 (International Cooperation and Judicial Assistance) and Part 10 (Enforcement) of the Statute.

12. Taking account of the remaining tasks of the Preparatory Commission listed in resolution F of the Conference, at the first session, the Chairman, in consultation with the Bureau, asked Mr. Tuvako Manongi (United Republic of Tanzania) to serve as coordinator for the crime of aggression. In addition, the Chairman designated Mr. Hiroshi Kawamura (Japan) as the contact point in respect of the draft texts of financial regulations and rules, a budget for the first financial year and the rules of procedure of the Assembly of States Parties; and Mr. Cristian Maquieira (Chile) as the contact point for the draft texts of a relationship agreement between the Court and the United Nations, basic principles governing a headquarters agreement to be negotiated between the Court and the host country, a draft agreement on the privileges and immunities of the Court, and the request contained in paragraph 4 of General Assembly resolution 53/105.

13. At its 3rd meeting, on 26 February 1999, the Preparatory Commission took note of the oral reports of the coordinators for the Elements of Crimes and for the Rules of Procedure and Evidence with respect to the work accomplished at the first session. At the same meeting, for ease of reference of delegations, the Preparatory Commission requested the Secretariat to prepare a document on the basis of the oral reports of the coordinators and to annex it to the proceedings of the Preparatory Commission at its first session (PCNICC/1999/L.3/Rev.1, annex).

14. At its second session, the Preparatory Commission proceeded with its work on the basis of its agenda (PCNICC/1999/L.1), adopted on 16 February 1999.

15. The Preparatory Commission also undertook a number of informal consultations with respect to the crime of aggression.

16. At its 7th meeting, on 9 August 1999, the Preparatory Commission agreed on the following arrangements concerning the question of the crime of aggression:

(a) A working group on the crime of aggression would be established at the outset of the next session of the Preparatory Commission;

(b) At the next and the following sessions of the Preparatory Commission, the plenary traditionally held each Monday morning would be maintained, but would be significantly shorter, essentially limited to brief reports by the coordinators;

(c) A meeting of the Working Group on the Crime of Aggression would follow each of the Monday morning plenary meetings, until the end of the morning;

(d) Informal consultations on the crime of aggression would be conducted at other times where possible and appropriate, it being understood that this should be without prejudice to the requirements of the work on subjects which must be completed by 30 June 2000. Within the limits of what was practicable, the Secretariat would endeavour to provide the best possible facilities for those informal consultations;

(e) The above arrangements were based on a clear and general understanding that they would remain unchanged until 30 June 2000, and that no additional requests concerning organization of the work with respect to the crime of aggression would be made before that date.

17. At its 5th meeting, on 30 July 1999, the Preparatory Commission was addressed by Judge Gabrielle Kirk McDonald, President of the International Tribunal for the Former Yugoslavia.

18. At its 8th meeting, on 13 August 1999, the Preparatory Commission took note of the oral reports of the coordinators for the Rules of Procedure and Evidence related to Part 4 and to Parts 5, 6 and 8 of the Rome Statute and of the coordinator for Elements of Crimes on the work accomplished at the second session. At the same meeting, for ease of reference of delegations, the Commission requested the Secretariat to prepare a document on the basis of the oral reports of the

coordinators and to annex it to the proceedings of the second session (PCNICC/1999/L.4/Rev.1, annex).

19. At its third session, the Preparatory Commission proceeded with its work on the basis of its agenda (PCNICC/1999/L.1), adopted on 16 February 1999.

20. At its 12th meeting, on 17 December 1999, the Preparatory Commission took note of the oral report of the coordinators for Elements of Crimes and for the Rules of Procedure and Evidence for Parts 2, 4, 6, 7, 8, 9 and 10 of the Statute and of the coordinator for the Crime of Aggression. At the same meetings, the Commission noted that it had completed a first reading of the Elements of Crimes and the Rules of Procedure and Evidence.

21. At the same meeting, the Preparatory Commission took note that the General Assembly by its resolution 54/105 of 9 December 1999 had renewed the mandate of the Commission and, in accordance with paragraph 3 of that resolution, the Secretary-General was requested to convene the Commission from 13 to 31 March, 12 to 30 June and 27 November to 8 December 2000.

22. In order to facilitate the task of the Preparatory Commission at its next sessions, the Commission requested the Secretariat to prepare an organized and consolidated text of the Rules of Procedure and Evidence and of the Elements of Crimes on the basis of the proceedings of the first, second and third sessions of the Commission (see annexes II and III respectively).

23. The Preparatory Commission took note of the Intergovernmental Regional Caribbean Conference for the signature and ratification of the Statute of the International Criminal Court hosted by the Ministry of the Attorney General of Trinidad and Tobago and the No Peace Without Justice Foundation, in Port-of-Spain from 15 to 17 March 1999, as well as the Port-of-Spain Declaration resulting therefrom; the international seminar on victims' access to the International Criminal Court hosted by the Government of France in Paris from 27 to 29 April 1999; the informal inter-sessional meeting hosted by the International Institute of Higher Studies in Criminal Sciences in Siracusa, Italy, from 21 to 27 June 1999; and the two briefing sessions on ratification and implementation legislation of the Rome Statute, hosted by the International Human Rights Law Institute of DePaul University and Parliamentarians for Global Action on 31 July and 7 August 1999 at United Nations Headquarters in New York.

24. The Preparatory Commission also noted with satisfaction that, during its first, second and third sessions, a total of 52 delegates had made use of the trust fund which, pursuant to paragraph 8 of General Assembly resolution 53/105, had been established to facilitate the participation of the least developed countries in the work of the Commission. The International Human Rights Law Institute of DePaul University provided accommodation for those delegates that attended the second session.

Annex I

List of documents issued at the first, second and third sessions of the Preparatory Commission, held in 1999

[Original: English/French/ Spanish]

General documents

First session of the Preparatory Commission (16-26 February 1999)

Symbol	Description
PCNICC/1999/L.1	Provisional agenda
PCNICC/1999/L.2	Note by the Secretariat
PCNICC/1999/L.3	Proceedings of the Preparatory Commission at its first session (draft summary)
PCNICC/1999/L.3/Rev.1	Proceedings of the Preparatory Commission at its first session (summary)
PCNICC/1999/INF.1	Provisional membership of the Preparatory Commission (first session)
PCNICC/1999/DP.1	Proposal submitted by Australia: Draft Rules of Procedure and Evidence of the International Criminal Court
PCNICC/1999/DP.2	Proposal by France: General outline of the Rules of Procedure and Evidence
PCNICC/1999/DP.3	Working paper submitted by France: Comments on the proposal by Australia contained in document PCNICC/1999/DP.1 (Part 2)
PCNICC/1999/DP.4	Proposal submitted by the United States of America: Draft elements of crimes (I. General comments; II. Terminology; III. Article 6: Crimes of genocide)
PCNICC/1999/DP.4/Add.1	Addendum: IV. Article 7: Crimes against humanity
PCNICC/1999/DP.4/Add.2	Addendum: V. Article 8: War crimes
PCNICC/1999/DP.4/Add.3	Addendum: VI. Inchoate offences
PCNICC/1999/DP.5	Proposal submitted by Hungary and Switzerland: Elements of Crimes: Article 8 (2) (a) of the Rome Statute of the International Criminal Court
PCNICC/1999/DP.5/Corr.1	Corrigendum (French and Russian only)
PCNICC/1999/DP.5/Corr.2	Corrigendum (English only)

Symbol	Description
PCNICC/1999/DP.6	Proposal by France on Rules of Procedure and Evidence: Part 3 (Trial proceedings), section 3 (Pre-trial phase), subsection 1 (Commencement of investigation and proceedings)
PCNICC/1999/DP.7	Proposal by France on Rules of Procedure and Evidence: Part 3, section 3, subsection 2 (Conduct of investigation and proceedings)
PCNICC/1999/DP.7/Add.1	Addendum (continued)
PCNICC/1999/DP.7/Add.2	Addendum (continued)
PCNICC/1999/DP.8	Proposal by France concerning Rules of Procedure and Evidence: Part 3, section 3, subsection 3
PCNICC/1999/DP.8/Add.1	Addendum (continued)
PCNICC/1999/DP.8/Add.2	Addendum (continued)
PCNICC/1999/DP.9	Proposal submitted by Spain: Working paper on Elements of Crimes: Introduction; preliminary observations; elements of the crime of genocide (article 6 of the Statute)
PCNICC/1999/DP.9/Add.1	Addendum: Article 7 of the Statute
PCNICC/1999/DP.9/Add.2	Addendum: Article 8 of the Statute
PCNICC/1999/DP.10	Proposal submitted by France concerning the Rules of Procedure and Evidence: Part 3, section 1, subsection 2
PCNICC/1999/DP.10/Add.1	Addendum: Part 3, section 1, subsection 1 (Seat of the court)
PCNICC/1999/DP.11	Proposal submitted by Bahrain, Iraq, Lebanon, the Libyan Arab Jamahiriya, Oman, the Sudan, the Syrian Arab Republic and Yemen on the crime of aggression

Second session of the Preparatory Commission (26 July-13 August 1999)

Symbol	Description
PCNICC/1999/L.4	Proceedings of the Preparatory Commission at its second session (draft summary)
PCNICC/1999/L.4/Rev.1	Proceedings of the Preparatory Commission at its second session (summary)
PCNICC/1999/L.4/Rev.1/Corr.1	Corrigendum

Symbol	Description
PCNICC/1999/DP.7/Add.1/Rev.1	Revision: proposal by France concerning the Rules of Procedure and Evidence: Part 3, section 3, subsection 2 (Conduct of investigation and proceedings) – Addendum (continued)
PCNICC/1999/DP.8/Add.1/Rev.1	Revision: proposal by France on Rules of Procedure and Evidence: Part 3, section 3, subsection 3 (Closure of the pre-trial phase) – Addendum (continued)
PCNICC/1999/DP.8/Add.2/Rev.1	Revision: proposal by France concerning the Rules of Procedure and Evidence: Part 3, section 3, subsection 3 (Closure of the pre-trial phase) – Addendum (continued)
PCNICC/1999/DP.12	Proposal submitted by the Russian Federation: Definition of the crime of aggression
PCNICC/1999/DP.13	Proposal submitted by Germany: Definition of the crime of aggression
PCNICC/1999/INF.1/Rev.1	List of delegations: first and second sessions of the Preparatory Commission
PCNICC/1999/INF.2	Compilation of proposals on the crime of aggression submitted at the Preparatory Committee on the Establishment of an International Criminal Court (1996-1998), the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (1998) and the Preparatory Commission for the International Criminal Court (1999)
PCNICC/1999/INF.2/Add.1	Addendum (continued)

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/L.5	Proceedings of the Preparatory Commission at its first, second and third sessions (16-26 February, 26 July-13 August and 29 November-17 December 1999) (draft summary)
PCNICC/1999/L.5/Rev.1 Rev.1/Add.1 and Add.2	Proceedings of the Preparatory Commission at its first, second and third sessions (16-26 February, 26 July-13 August and 29 November-17 December 1999) (Summary)
PCNICC/1999/INF/1/Rev.1/Add.1 and Add.2	List of Delegations

Symbol	Description
PCNICC/1999/INF/3	Rome Statute of the International Criminal Court adopted at Rome on 17 July 1998 — Note by the Secretariat

Working Group on Rules of Procedure and Evidence

First session of the Preparatory Commission (16-26 February 1999)

Symbol	Description
PCNICC/1999/WGRPE/DP.1	Proposed amendments to documents PCNICC/1999/DP.6 and DP.8 submitted by Italy
PCNICC/1999/WGRPE/DP.2	Proposal submitted by Colombia: Comments on the proposals submitted by France (PCNICC/1999/DP.6-DP.8) and Australia (PCNICC/1999/DP.1) on the Rules of Procedure and Evidence
PCNICC/1999/WGRPE/DP.3	Proposal by Costa Rica concerning the Rules of Procedure and Evidence
PCNICC/1999/WGRPE/DP.4	Proposal submitted by Colombia containing comments on the discussion papers submitted by the Coordinator (documents WGRPE/RT.1 and RT.2)
PCNICC/1999/WGRPE/INF.1	Information note from France for delegations and intergovernmental and non-governmental organizations
PCNICC/1999/WGRPE/RT.1	Discussion paper proposed by the coordinator: Part 5 of the Rome Statute: Investigation and Prosecution (rule 5.1-5.4)
PCNICC/1999/WGRPE/RT.2	Discussion paper proposed by the Coordinator: Part 5 of the Rome Statute: Investigation and Prosecution (rule 5.5-5.8)
PCNICC/1999/WGRPE/RT.3	Discussion paper proposed by the Coordinator: Part 5 of the Rome Statute: Investigation and Prosecution (rule 5.9-5.10)
PCNICC/1999/WGRPE/RT.3/Corr.1	Discussion paper proposed by the Coordinator: Part 5 of the Rome Statute: Investigation and Prosecution (rule 5.9)
PCNICC/1999/WGRPE/RT.4	Discussion paper proposed by the Coordinator: Part 5 of the Rome Statute: Investigation and Prosecution (rule 5.11-5.21)

Second session of the Preparatory Commission (26 July-13 August 1999)

Symbol	Description
PCNICC/1999/WGRPE/DP.5	Proposal by France concerning the Rules of Procedure and Evidence: Recapitulation of the general outline proposed by France
PCNICC/1999/WGRPE/DP.6	Proposal by France concerning the Rules of Procedure and Evidence: Appeal
PCNICC/1999/WGRPE/DP.7	Proposal by France concerning the Rules of Procedure and Evidence: Compensation
PCNICC/1999/WGRPE/DP.8	Proposal submitted by Colombia, Spain and Venezuela concerning the Rules of Procedure and Evidence: Official and working languages
PCNICC/1999/WGRPE/DP.9	Proposal submitted by Colombia, Spain and Venezuela concerning the Rules of Procedure and Evidence: Reporting judge
PCNICC/1999/WGRPE/DP.10	Proposal submitted by Spain and Venezuela concerning the Rules of Procedure and Evidence: Replacements
PCNICC/1999/WGRPE/DP.11	Proposal by Spain and Venezuela concerning the Rules of Procedure and Evidence: Excusing and disqualification of judges
PCNICC/1999/WGRPE/DP.12	Proposal submitted by Spain and Venezuela concerning the Rules of Procedure and Evidence: Disciplinary measures
PCNICC/1999/WGRPE/DP.13	Proposal by France concerning the Rules of Procedure and Evidence: Section 6: Revision
PCNICC/1999/WGRPE/DP.14	Proposal submitted by Colombia concerning the Rules of Procedure and Evidence: Article 74, paragraph 1, of the Statute of the International Criminal Court
PCNICC/1999/WGRPE/DP.15	Proposal by Colombia concerning the Rules of Procedure and Evidence: Rules relating to Part 6 of the Statute
PCNICC/1999/WGRPE/DP.16	Proposal by Spain concerning the Rules of Procedure and Evidence: Excusing and disqualification: document PCNICC/1999/WGRPE/DP.11 submitted by Spain and Venezuela
PCNICC/1999/WGRPE/DP.17	Proposal by Italy concerning article 70 of the Rome Statute
PCNICC/1999/WGRPE/DP.18	Proposal of Italy on evidence, investigation and the rights of the accused
PCNICC/1999/WGRPE/DP.19	Proposal submitted by Australia on Rules of Procedure and Evidence: Part 6 of the Rome Statute

Symbol	Description
PCNICC/1999/WGRPE/DP.20	Proposal submitted by Italy concerning the Rules of Procedure and Evidence: Protection of victims' and witnesses' identity
PCNICC/1999/WGRPE/DP.21	Proposal submitted by Italy concerning the Rules of Procedure and Evidence: Protection of victims and witnesses
PCNICC/1999/WGRPE/DP.22	Proposal submitted by Croatia concerning the Rules of Procedure and Evidence: Rule 6.9. Privileged witnesses and self-incrimination by a witness
PCNICC/1999/WGRPE/DP.23	Proposal submitted by Croatia concerning the Rules of Procedure and Evidence: Rule 6.6. *Amicus Curiae* and other forms of submission
PCNICC/1999/WGRPE/DP.24	Proposal submitted by Colombia concerning the Rules of Procedure and Evidence: Comments on the Coordinator's proposal (PCNICC/1999/WGRPE/RT.5)
PCNICC/1999/WGRPE/DP.25	Proposal submitted by Austria concerning the Rules of Procedure and Evidence: Article 70. Offences against the administration of justice
PCNICC/1999/WGRPE/DP.26	Proposal submitted by Australia and France on rules to govern the appeal
PCNICC/1999/WGRPE/DP.27	Proposal submitted by the Netherlands in connection with document PCNICC/1999/WGRPE/RT.5
PCNICC/1999/WGRPE/DP.28	Proposed amendment to rule 6.2 of document PCNICC/1999/WGRPE/RT.5 submitted by Andorra, Argentina, Bolivia, Chile, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, Italy, Mexico, Mozambique, Peru, Portugal, Spain and Venezuela
PCNICC/1999/WGRPE/DP.29	Proposal submitted by Poland concerning the Rules of Procedure and Evidence: Article 70
PCNICC/1999/WGRPE/DP.30	Proposal submitted by Colombia concerning the Rules of Procedure and Evidence: Comments on the Coordinator's proposal (PCNICC/1999/WGRPE/RT.5)
PCNICC/1999/WCRPE/DP.31	Proposal submitted by the Netherlands and Poland concerning the Rules of Procedure and Evidence: Article 70
PCNICC/1999/WGRPE/DP.32	Proposal submitted by Australia and France to govern revision of conviction or sentence

Symbol	Description
PCNICC/1999/WGRPE/DP.33	Proposal submitted by Andorra, Argentina, Bolivia, Chile, Colombia, Costa Rica, Cuba, Italy, Mexico, Mozambique, Peru, Portugal, Spain and Venezuela: Amendments to rules 6.7, 6.17, 6.18, 6.21, 6.22 and 6.23 of document PCNICC/1999/WGRPE/RT.5
PCNICC/1999/WGRPE/DP.34	Proposal submitted by France: Commentary on document PCNICC/1999/WGRPE/DP.19
PCNICC/1999/WGRPE/DP.35	Proposal submitted by the Netherlands concerning the Rules of Procedure and Evidence in connection with document PCNICC/1999/WGRPE/DP.20: Rule A. Guardian of the victims' and witnesses' identity
PCNICC/1999/WGRPE/DP.36	Proposal submitted by Colombia: Comments on the discussion paper proposed by the Coordinator (PCNICC/1999/WGRPE/RT.5)
PCNICC/1999/WGRPE/DP.37	Proposal by Colombia: Comments on the report on the international seminar on victims' access to the International Criminal Court (PCNICC/1999/WGRPE/INF.2)
PCNICC/1999/WGRPE/DP.38	Request from the Governments of Bosnia and Herzegovina, Canada, Colombia, Egypt, Portugal, Senegal, and Spain regarding the report prepared by Judge Florence Ndepele Mwachande Mumba, Judge Gabrielle Kirk McDonald, Judge Antonio Cassese, Judge Richard George May, Judge Almiro Simoes Rodrigues and Judge Mohammed Bennouna on the Rules of Procedure and Evidence of the Statute
PCNICC/1999/WGRPE/INF.2	Report on the international seminar on victims' access to the International Criminal Court
PCNICC/1999/WGRPE/INF.2/Add.1	Addendum: Annex II (List of experts); and Annex III (List of observers)
PCNICC/1999/WGRPE/RT.5/Rev.1	Revised discussion paper proposed by the Coordinator: Rules of Procedure and Evidence related to Part 6 of the Statute
PCNICC/1999/WGRPE/RT.5/Rev.1/Add.1	Addendum: Revised discussion paper proposed by the Coordinator — Part 6 of the Rome Statute: The Trial
PCNICC/1999/WGRPE/RT.5/Rev.1/Add.1/Corr.1	Corrigendum
PCNICC/1999/WGRPE/RT.5/Rev.1/Add.2	Addendum: Revised discussion paper proposed by the Coordinator — Part 6 of the Statute
PCNICC/1999/WGRPE/RT.5/Rev.1/Add.3	Addendum: Revised discussion paper proposed by the Coordinator — Rules of Procedure and Evidence related to Part 6 of the Statute

Symbol	Description
PCNICC/1999/WGRPE/RT.6	Revised discussion paper proposed by the Coordinator: Part 5 of the Statute: Rules 5.1 to 5.4. Decision of the Prosecutor on the initiation of an investigation
PCNICC/1999/WGRPE/RT.7	Discussion paper proposed by the Coordinator — Part 8 of the Statute

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/WGRPE/DP.39	Proposal by Colombia — Comments on document PCNICC/1999/WGRPE/RT.5/Rev.1 proposed by the Coordinator
PCNICC/1999/WGRPE/DP.39/ Corr.1	Corrigendum
PCNICC/1999/WGRPE/DP.40	Proposal submitted by Colombia — Comments on document PCNICC/1999/WGRPE/RT.5/Rev.1/Add.1 proposed by the Coordinator
PCNICC/1999/WGRPE/DP.41	Comments submitted by Colombia — Comments on document PCNICC/1999/WGRPE/RT.5/Rev.1/Add.2 proposed by the Coordinator
PCNICC/1999/WGRPE/DP.42	Proposal by Colombia — Comments on document PCNICC/1999/WGRPE/RT.5/Rev.1/Add.3 proposed by the Coordinator
PCNICC/1999/WGRPE/DP.43	Proposal submitted by France concerning Part 2 of the Rome Statute of the International Criminal Court, concerning jurisdiction, admissibility and applicable law
PCNICC/1999/WGRPE/DP.44	Proposal submitted by Australia concerning Part 2 of the Rome Statute of the International Criminal Court, concerning jurisdiction, admissibility, and applicable law
PCNICC/1999/WGRPE/DP.45	Proposal submitted by the United States of America concerning articles 17, 18 and 19 of Part 2 of the Rome Statute
PCNICC/1999/WGRPE/DP.46	Proposal submitted by Bosnia and Herzegovina concerning Part 2 of the Rome Statute of the International Criminal Court (Jurisdiction, admissibility and applicable law)
PCNICC/1999/WGRPE/DP.47	Proposal submitted by Australia and France concerning the Rules of Procedure and Evidence relating to Part 8 of the Rome Statute of the International Criminal Court (Appeal and revision) — Rules relating to article 85 (Compensation to an arrested or convicted person)

Working Group on Rules of Procedure and Evidence (Part 2: Jurisdiction, Admissibility and Applicable Law)*

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/WGRPE(2)/RT.1	Discussion paper submitted by the Coordinator concerning Part 2 of the Statute, on jurisdiction, admissibility and applicable law
PCNICC/1999/WGRPE(2)/RT.1/Corr.1	Corrigendum

Working Group on Rules of Procedure and Evidence (Part 4: Organization and Composition of the Court)**

Second session of the Preparatory Commission (26 July-13 August 1999)

Symbol	Description
PCNICC/1999/WGRPE(4)/DP.1	Coordinator's paper: Scheme of work for Part 4: Organization and Composition of the Court
PCNICC/1999/WGRPE(4)/DP.2/Rev.1	Revision: Proposal submitted by Canada, France, Germany and the Netherlands in connection with article 43 of the Rome Statute of the International Criminal Court concerning the Rules of Procedure and Evidence as regards document PCNICC/1999/DP.1: Rule 38.a. Responsibilities of the Registrar related to the defence
PCNICC/1999/WGRPE(4)/DP.3/Rev.1	Revised proposal submitted by Denmark concerning Part 4, section 2, of the Rules of Procedure and Evidence: inclusion of a new rule 20 (f): "Alternate and substitute judges"
PCNICC/1999/WGRPE(4)/DP.4	Canadian proposals to PCNICC/1999/WGRPE/INF.2 of 6 July 1999: Workshop 3 — Protection of victims and witnesses
PCNICC/1999/WGRPE(4)/RT.1	Coordinator's discussion paper: Part 4, Organization and Composition of the Court

* No documents were issued during the first and second sessions of the Preparatory Commission.

** No documents were issued during the first session of the Preparatory Commission.

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/WGRPE(4)/DP.5	Proposal submitted by Angola, Brazil, Chile, Colombia, Cuba, Ecuador, Peru and Spain concerning document PCNICC/1999/WGRPE(4)/RT.3
PCNICC/1999/WGRPE(4)/RT.1/Add.1	Coordinator's discussion paper — Rules that relate to situations that may affect the functioning of the Court — Addendum (continued)
PCNICC/1999/WGRPE(4)/RT.1/Add.1/Corr.1	Corrigendum
PCNICC/1999/WGRPE(4)/RT.2	Coordinator's discussion paper — Rules relating to the organization of the Court
PCNICC/1999/WGRPE(4)/RT.2/Add.1	Discussion paper proposed by the Coordinator concerning Part 4: Organization of the Office of the Registrar — Addendum (continued)
PCNICC/1999/WGRPE(4)/RT.2/Add.1/Corr.1	Corrigendum
PCNICC/1999/WGRPE(4)/RT.3	Coordinator's discussion paper — Rules relating to texts, amendments and solemn undertaking. Rules relating to the organization of the Court (replacements and alternate judge)
PCNICC/1999/WGRPE(4)/RT.3/Add.1	Coordinator's discussion paper — Rules relating to a single judge, publication of decisions of the Court, working languages of the Court, translation and interpretation services and procedure applicable to the publication of documents of the Court — Addendum (continued)
PCNICC/1999/WGRPE(4)/RT.3/Add.1/Corr.1	Corrigendum

Working Group on Rules of Procedure and Evidence (Part 6: The Trial)*

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/WGRPE(6)/RT.1	Revised discussion paper proposed by the Coordinator on Rules of Procedure and Evidence related to Part 6 of the Statute: Rule 6.5

* No documents were issued during the first and second sessions of the Preparatory Commission.

Symbol	Description
PCNICC/1999/WGRPE(6)/RT.2	Revised discussion paper proposed by the Coordinator on Rules of Procedure and Evidence related to Part 6 of the Statute: Rule 6.4

Working Group on Rules of Procedure and Evidence (Part 7: Penalties)*

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/WGRPE(7)/DP.1	Proposal submitted by France concerning Part 7 of the Rome Statute of the International Criminal Court, on penalties
PCNICC/1999/WGRPE(7)/DP.2	Proposal submitted by Spain on the Rules of Procedure and Evidence relating to Part 7 of the Rome Statute of the International Criminal Court (Penalties)
PCNICC/1999/WGRPE(7)/DP.3	Proposal submitted by Brazil and Portugal concerning Part 7 of the Rome Statute of the International Criminal Court, on penalties — Determination of the sentence
PCNICC/1999/WGRPE(7)/DP.4	Proposal submitted by Brazil and Portugal concerning Part 7 of the Rome Statute of the International Criminal Court, on penalties — Fines
PCNICC/1999/WGRPE(7)/DP.5	Proposal submitted by Australia, Canada and Germany concerning Part 7 of the Rome Statute of the International Criminal Court, on penalties
PCNICC/1999/WGRPE(7)/RT.1/Rev.1	Revision: Discussion paper proposed by the Coordinator concerning Part 7 of the Rome Statute of the International Criminal Court, on penalties — Rules relating to article 77, paragraph 2 (a)
PCNICC/1999/WGRPE(7)/RT.1/Add.1	Discussion paper proposed by the Coordinator concerning Part 7 of the Rome Statute of the International Criminal Court, on penalties — Rules relating to article 78 — Addendum
PCNICC/1999/WGRPE(7)/RT.1/Add.2	Discussion paper proposed by the Coordinator concerning Part 7 of the Rome Statute of the International Criminal Court, on penalties — Rule relating to article 77, paragraph 2(b) — Addendum

* No documents were issued during the first and second sessions of the Preparatroy Commission.

Symbol	Description
PCNICC/1999/WGRPE(7)/RT.1/Add.3	Discussion paper proposed by the Coordinator concerning Part 7 of the Rome Statute of the International Criminal Court, on penalties — Rule relating to article 79 — Addendum
PCNICC/1999/WGRPE(7)/RT.2	Discussion paper proposed by the Coordinator concerning Part 7 of the Rome Statute of the International Criminal Court, on penalties — Rules relating to articles 77 to 79
PCNICC/1999/WGRPE(7)/RT.2/Corr.1	Corrigendum

Working Group on Rules of Procedure and Evidence (Part 8: Appeal and Revision)*

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/WGRPE(8)/RT.1	Discussion paper proposed by the Coordinator relating to Part 8 of the Statute, on appeal and revision: Section 4. Revision of conviction or sentence
PCNICC/1999/WGRPE(8)/RT.2	Discussion paper proposed by the Coordinator relating to Part 8 of the Statute, on appeal and revision: Section 5. Compensation to an arrested or convicted person

Working Group on Rules of Procedure and Evidence (Part 9: International Cooperation and Judicial Assistance)*

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/WGRPE(9)/DP.1	Proposal submitted by Italy concerning Part 9 of the Rome Statute of the International Criminal Court, on international cooperation and judicial assistance — Section 1. General provisions
PCNICC/1999/WGRPE(9)/DP.1/Add.1	Proposal submitted by Italy concerning Part 9 of the Rome Statute of the International Criminal Court, on international cooperation and judicial assistance — Section 3. Other forms of cooperation — Addendum

* No documents were issued during the first and second sessions of the Preparatory Commission.

Symbol	Description
PCNICC/1999/WGRPE(9)/DP.2	Proposal submitted by France concerning Part 9 of the Rome Statute of the International Criminal Court, on international cooperation and judicial assistance — Part 9 of the Rome Statute
PCNICC/1999/WGRPE(9)/DP.3	Proposal submitted by Spain on the Rules of Procedure and Evidence concerning Part 9 of the Rome Statute of the International Criminal Court, on international cooperation and judicial assistance — Rules in relation to paragraph 3 of article 92 of the Statute (Provisional arrest)
PCNICC/1999/WGRPE(9)/DP.4	Proposal submitted by Canada and Germany concerning Part 9 of the Rome Statute of the International Criminal Court, on international cooperation and judicial assistance — Article 89, paragraph 4, of the Statute
PCNICC/1999/WGRPE(9)/RT.1	Discussion paper proposed by the Coordinator concerning Part 9 of the Rome Statute of the International Criminal Court, on international cooperation and judicial assistance — Rules relating to article 87 of the Statute
PCNICC/1999/WGRPE(9)/RT.1/Corr.1	Corrigendum (French only)
PCNICC/1999/WGRPE(9)/RT.1/Corr.2	Corrigendum (English only)
PCNICC/1999/WGRPE(9)/RT.2	Discussion paper proposed by the Coordinator concerning Part 9 (International cooperation and judicial assistance) — Rules relating to articles 89 to 101 of the Statute
PCNICC/1999/WGRPE(9)/RT.2/Corr.1	Corrigendum

Working Group on Rules of Procedure and Evidence (Part 10: Enforcement)*

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/WGRPE(10)/DP.1	Proposal submitted by France concerning Part 10 of the Rome Statute of the International Criminal Court, concerning enforcement
PCNICC/1999/WGRPE(10)/DP.2	Proposal submitted by Spain on the Rules of Procedure and Evidence concerning Part 10 of the Rome Statute of the International Criminal Court, concerning enforcement — Rule expanding article 110, paragraph 4 (Review by the Court concerning reduction of sentence)
PCNICC/1999/WGRPE(10)/DP.3	Proposal submitted by Canada and Germany concerning Part 10 of the Rome Statute of the International Criminal Court, on enforcement — article 110 of the Statute
PCNICC/1999/WGRPE(10)/DP.4	Proposal submitted by Brazil, Chile, Colombia, Italy, Mexico, Portugal and Spain concerning Part 10 of the Rome Statute of the International Criminal Court, on enforcement — Rules relating to article 106
PCNICC/1999/WGRPE(10)/RT.1	Discussion paper proposed by the Coordinator concerning Part 10 (Enforcement) — Rules relating to articles 103 and 104 of the Statute
PCNICC/1999/WGRPE(10)/RT.1/Corr.1	Corrigendum
PCNICC/1999/WGRPE(10)/RT.2/Rev.1	Revision: Discussion paper proposed by the Coordinator concerning Part 10 (Enforcement) — Rules relating to articles 105, 106, 110 and 111 of the Statute
PCNICC/1999/WGRPE(10)/RT.2/Rev.1/Corr.1	Corrigendum
PCNICC/1999/WGRPE(10)/RT.3	Discussion paper proposed by the Coordinator concerning Part 10 (Enforcement) — Rules relating to articles 107 to 109 of the Statute
PCNICC/1999/WGRPE(10)/RT.3/Corr.1	Corrigendum (French only)
PCNICC/1999/WGRPE(10)/RT.3/Corr.2	Corrigendum

* No documents were issued during the first and second sessions of the Preparatory Commission.

Working Group on Elements of Crimes

First session of the Preparatory Commission (16-26 February 1999)

Symbol	Description
PCNICC/1999/WGEC/DP.1	Proposal submitted by France: Comments on the proposal submitted by the United States of America concerning article 6, Crime of genocide (PCNICC/1999/DP.4)
PCNICC/1999/WGEC/DP.2	Proposal submitted by Colombia: Comments on the proposal submitted by the United States of America concerning article 6, Crime of genocide (PCNICC/1999/DP.4)
PCNICC/1999/WGEC/DP.3	Proposal submitted by Colombia: Comments on the proposals by the United States of America (PCNICC/1999/DP.4/Add.2) and Hungary and Switzerland (PCNICC/1999/DP.5 and Corr.2) concerning war crimes
PCNICC/1999/WGEC/DP.4	Proposal submitted by Algeria, Bahrain, Comoros, Djibouti, Egypt, Jordan, Iraq, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, the Sudan, the Syrian Arab Republic, Tunisia, the United Arab Emirates and Yemen: Comments on the proposal submitted by the United States concerning terminology and the crime of genocide (PCNICC/1999/DP.4)
PCNICC/1999/WGEC/DP.4/Add.1	Addendum
PCNICC/1999/WGEC/DP.5	Proposal submitted by Japan: Elements of Crimes: Article 8.2 (a) of the Rome Statute of the International Criminal Court
PCNICC/1999/WGEC/DP.6	Proposal submitted by Costa Rica on Elements of Crimes
PCNICC/1999/WGEC/INF.1	Request from the Governments of Belgium, Costa Rica, Finland, Hungary, South Africa and Switzerland regarding the text prepared by the International Committee of the Red Cross on article 8, para. 2 (a), of the Rome Statute of the International Criminal Court
PCNICC/1999/WGEC/RT.1	Discussion paper proposed by the Coordinator: Article 6: The crime of genocide
PCNICC/1999/WGEC/RT.2	Discussion paper proposed by the Coordinator: Article 8: War crimes (article 8(2)(a)(i), (ii) and (iii)
PCNICC/1999/WGEC/RT.3	Discussion paper proposed by the Coordinator: Suggested comments relating to the crime of genocide

Second session of the Preparatory Commission (26 July-13 August 1999)

Symbol	Description
PCNICC/1999/WGEC/DP.8*	Proposal submitted by Costa Rica, Hungary and Switzerland on certain provisions of article 8, paragraph 2 (b), of the Rome Statute of the International Criminal Court: (viii), (x), (xiii), (xiv), (xv), (xvi), (xxi), (xxii), (xxvi)
PCNICC/1999/WGEC/DP.9	Proposal submitted by Spain: working paper on Elements of Crimes: Elements of war crimes (article 8, paragraph 2)
PCNICC/1999/WGEC/DP.10	Proposal submitted by Costa Rica, Hungary and Switzerland on article 8, paragraph 2 (c), of the Rome Statute of the International Criminal Court
PCNICC/1999/WGEC/DP.10/Corr.1	Corrigendum (Spanish only)
PCNICC/1999/WGEC/DP.11	Proposal submitted by Costa Rica, Hungary and Switzerland on certain provisions of article 8, paragraph 2 (e), of the Rome Statute of the International Criminal Court: (v), (vi), (vii), (viii), (xi), (xii)
PCNICC/1999/WGEC/DP.12	Proposal submitted by Japan: Elements of crimes: article 8, paragraph 2 (b) (i) to (xvi)
PCNICC/1999/WGEC/DP.13	Proposal by Belgium concerning article 8, paragraph 2 (c) (iv), of the Statute of the International Criminal Court
PCNICC/1999/WGEC/DP.14	Proposal by Belgium concerning article 8, paragraph 2 (b) (xxii), of the Statute of the International Criminal Court
PCNICC/1999/WGEC/DP.15	Proposal submitted by Colombia: Comments on the proposal submitted by Costa Rica, Hungary and Switzerland on article 8, paragraph 2 (c), of the Rome Statute of the International Criminal Court (PCNICC/1999/WGEC/DP.10)
PCNICC/1999/WGEC/DP.16	Proposal submitted by Colombia: Comments on the proposal by the delegations of Costa Rica, Hungary and Switzerland concerning article 8, paragraph 2 (b) of the Rome Statute (PCNICC/1999/WGEC/DP.8)
PCNICC/1999/WGEC/DP.17	Proposal submitted by Argentina, Bangladesh and Mexico concerning rule 6.5, "Evidence in cases of sexual violence", contained in document PCNICC/1999/WGRPE/RT.5
PCNICC/1999/WGEC/DP.18	Proposal submitted by the Republic of Korea concerning article 8, paragraph 2 (c) (i)
PCNICC/1999/WGEC/DP.19	Proposal by Belgium concerning article 8, paragraph 2 (b) (xxvi), of the Statute of the International Criminal Court

* Document PCNICC/1999/WGEC/DP.7 was not issued.

Symbol	Description
PCNICC/1999/WGEC/DP.20	Proposal submitted by Costa Rica, Hungary and Switzerland on article 8, paragraph 2 (b) (i), (ii), (iii), (iv), (v), (vi), (vii), (ix), (xi) and (xii) of the Rome Statute of the International Criminal Court
PCNICC/1999/WGEC/DP.21	Proposal submitted by the Republic of Korea concerning the elements of crimes of the war crime of sexual violence under article 8, paragraph 2 (b) (xxii)
PCNICC/1999/WGEC/DP.22	Proposal submitted by Costa Rica, Hungary and Switzerland on article 8, paragraph 2 (b) (xvii), (xviii), (xix), (xx), (xxiii), (xxiv) and (xxv) of the Rome Statute of the International Criminal Court
PCNICC/1999/WGEC/DP.23	Proposal submitted by Colombia: Comments on the proposal submitted by Costa Rica, Hungary and Switzerland and the proposal submitted by Japan on article 8, paragraph 2 (b) (xiv), (xv) and (xxvi), of the Rome Statute (PCNICC/1999/WGEC/DP.8 and DP.12)
PCNICC/1999/WGEC/DP.24	Proposal submitted by Spain concerning article 8, paragraph 2 (b) (xxiv), of the Rome Statute of the International Criminal Court
PCNICC/1999/WGEC/DP.25	Proposal submitted by Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Morocco, Oman, Qatar, Saudi Arabia, the Sudan, the Syrian Arab Republic, Tunisia, the United Arab Emirates and Yemen on article 8, paragraph 2 (b) (viii): War crime of deporting or transferring population
PCNICC/1999/WGEC/DP.26	Proposal submitted by Colombia on article 8, paragraph 2 (b) (xx), of the Rome Statute of the International Criminal Court
PCNICC/1999/WGEC/DP.27	Proposal submitted by China and the Russian Federation on the elements of article 8, paragraph 2 (c) (i), in the discussion paper proposed by the Coordinator (PCNICC/1999/WGEC/RT.5/Rev.1)
PCNICC/1999/WGEC/INF.2	Request from the Governments of Belgium, Costa Rica, Finland, Hungary, the Republic of Korea and South Africa and the Permanent Observer Mission of Switzerland to the United Nations regarding the text prepared by the International Committee of the Red Cross on article 8, paragraph 2 (b), (c) and (e), of the Rome Statute of the International Criminal Court

Symbol	Description
PCNICC/1999/WGEC/INF.2/Add.1	Addendum: Request from the Governments of Belgium, Costa Rica, Finland, Hungary, the Republic of Korea, and South Africa and the Permanent Observer Mission of Switzerland to the United Nations regarding the text prepared by the International Committee of the Red Cross on article 8, paragraph 2 (b), (i), (ii), (iii), (iv), (v), (vi), (vii), (ix), (xi) and (xii), of the Statute
PCNICC/1999/WGEC/INF.2/Add.2	Addendum: article 8, paragraph 2 (b) (xvii), (xviii), (xix), (xx), (xxiii), (xxiv) and (xxv)
PCNICC/1999/WGEC/INF.3	Proposals in relation to elements of article 8, paragraph 2 (b) (viii), of the Rome Statute of the International Criminal Court
PCNICC/1999/WGEC/INF.3/Corr.1	Corrigendum
PCNICC/1999/WGEC/RT.4	Discussion paper proposed by the Coordinator: Article 8, paragraph 2 (a)
PCNICC/1999/WGEC/RT.5/Rev.1	Discussion paper proposed by the Coordinator: Article 8, paragraph 2 (c)
PCNICC/1999/WGEC/RT.6	Discussion paper proposed by the Coordinator: Article 8, paragraph 2 (b) (xxii)
PCNICC/1999/WGEC/RT.7	Discussion paper proposed by the Coordinator: Article 8, paragraph 2 (b) (xiii)-(xvi) and (xxvi)
PCNICC/1999/WGEC/RT.8	Discussion paper proposed by the Coordinator: Article 8, paragraph 2 (b) (x) and (xxi)
PCNICC/1999/WGEC/RT.9	Discussion paper proposed by the Coordinator: Article 8, paragraph 2 (b) (i)-(iii)
PCNICC/1999/WGEC/RT.10	Discussion paper proposed by the Coordinator: Article 8, paragraph 2 (b) (vi), (vii), (xi) and (xii)

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/WGEC/DP.28	Comments by Colombia on document PCNICC/1999/WGEC/RT.5/Rev.1 proposed by the Coordinator
PCNICC/1999/WGEC/DP.29	Comments by Colombia on document PCNICC/1999/WGEC/RT.4 proposed by the Coordinator
PCNICC/1999/WGEC/DP.30	Comments by Colombia on document PCNICC/1999/WGEC/RT.6 proposed by the Coordinator

Symbol	Description
PCNICC/1999/WGEC/DP.31	Comments by Colombia on document PCNICC/1999/WGEC/RT.7 proposed by the Coordinator
PCNICC/1999/WGEC/DP.32	Comments by Colombia on document PCNICC/1999/WGEC/RT.8 proposed by the Coordinator
PCNICC/1999/WGEC/DP.33	Comments by Colombia on document PCNICC/1999/WGEC/RT.9 proposed by the Coordinator
PCNICC/1999/WGEC/DP.34	Comments by Colombia on document PCNICC/1999/WGEC/RT.10 proposed by the Coordinator
PCNICC/1999/WGEC/DP.35	Commentary submitted by Switzerland on article 7 of the Statute of the International Criminal Court
PCNICC/1999/WGEC/DP.36	Proposal submitted by Canada and Germany on article 7
PCNICC/1999/WGEC/DP.37	Proposal submitted by Costa Rica, Hungary and Switzerland on article 8, paragraph 2 (e) (i), (ii), (iii), (iv), (ix) and (x), of the Rome Statute of the International Criminal Court
PCNICC/1999/WGEC/DP.38	Proposal submitted by Japan on the "structure" of elements for crimes against humanity
PCNICC/1999/WGEC/DP.39	Proposal submitted by Bahrain, Iraq, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Oman, Qatar, Saudi Arabia, the Sudan, the Syrian Arab Republic and the United Arab Emirates concerning the elements of crimes against humanity
PCNICC/1999/WGEC/DP.40	Proposal submitted by Colombia — Comments on the discussion on article 8.2 (a), (b) and (e) of the Rome Statute
PCNICC/1999/WGEC/DP.41	Proposal submitted by Colombia — Comments on the proposals submitted by Canada and Germany on article 7 and by Japan on the "structure" of elements for crimes against humanity
PCNICC/1999/WGEC/DP.42	Proposal submitted by Egypt on common elements to be included in all crimes against humanity
PCNICC/1999/WGEC/DP.43	Proposal submitted by Colombia — Comments on the documents submitted by Egypt (PCNICC/1999/WGEC/DP.42), Germany and Canada (PCNICC/1999/WGEC/DP.36), and Bahrain, Iraq, Kuwait, Lebanon, the Libyan Arab Jamahiriya, Oman, Qatar, the Syrian Arab Republic, Saudi Arabia, the Sudan and the United Arab Emirates (PCNICC/1999/WGEC/DP.39)
PCNICC/1999/WGEC/DP.44	Proposal submitted by Colombia on the "structure" of war crimes committed in the context of an armed conflict of a non- international character

Symbol	Description
PCNICC/1999/WGEC/DP.45	Proposal submitted by China: article 7 (1) (g) (4): Crime against humanity of enforced sterilization, in PCNICC/1999/WGEC/DP.36
PCNICC/1999/WGEC/INF/2/Add.3	Request from the Governments of Belgium, Costa Rica, Finland, Hungary, the Republic of Korea, South Africa and the Permanent Observer Mission of Switzerland to the United Nations regarding the text prepared by the International Committee of the Red Cross on article 8, paragraph 2 (e) (i), (ii), (iii), (iv), (ix) and (x), of the Rome Statute of the International Criminal Court
PCNICC/1999/WGEC/INF/2/Add.4	Request from the Governments of Belgium, Finland, Hungary, Mexico, the Republic of Korea, South Africa and the Permanent Observer Mission of Switzerland to the United Nations regarding the text prepared by the International Committee of the Red Cross on the mental element in the common law and civil law systems and on the concepts of mistake of fact and mistake of law in both national and international law
PCNICC/1999/WGEC/RT.11	Discussion paper proposed by the Coordinator — Article 8, paragraph 2 (b) (viii)
PCNICC/1999/WGEC/RT.12	Discussion paper proposed by the Coordinator — Article 8, paragraph 2 (e)
PCNICC/1999/WGEC/RT.13	Discussion paper proposed by the Coordinator — Article 8, paragraph 2 (b) (iv), (v), (ix) and (xxix)
PCNICC/1999/WGEC/RT.13/Corr.1	Corrigendum
PCNICC/1999/WGEC/RT.14	Discussion paper proposed by the Coordinator — Article 8, paragraph 2 (b) (xxiii) and (xxv)
PCNICC/1999/WGEC/RT.15	Discussion paper proposed by the Coordinator — Article 8, paragraph 2 (b) (xvii), (xviii), (xix) and (xx)
PCNICC/1999/WGEC/RT.16	Discussion paper proposed by the Coordinator — Article 7 (Crimes against humanity)
PCNICC/1999/WGEC/RT.16/Corr.1	Corrigendum

Working Group on the Crime of Aggression*

Third session of the Preparatory Commission (29 November-17 December 1999)

Symbol	Description
PCNICC/1999/WGCA/DP.1	Proposal submitted by Greece and Portugal
PCNICC/1999/WGCA/RT.1	Discussion paper proposed by the Coordinator — Consolidated text of proposals on the crime of aggression
PCNICC/1999/WGCA/RT.1/Corr.1	Corrigendum
PCNICC/1999/WGCA/RT.1/Corr.2	Corrigendum (French only)

* No documents were issued during the first and second sessions of the Preparatory Commission.

Annex II

Rules of Procedure and Evidence

[See PCNICC/1999/L.5/Rev.1/Add.1]

Annex III

Elements of Crimes

[See PCNICC/1999/L.5/Rev.1/Add.2]

Annex IV

Crime of aggression

[Original: English]

Discussion paper proposed by the Coordinator

Consolidated text of proposals on the crime of aggression

Definition of the crime of aggression

Option 1

1. For the purposes of the present Statute, [and subject to a determination by the Security Council regarding the act of a State,] the crime of aggression means [the use of the armed force, including the initiation thereof, by an individual who is in a position of exercising control or directing the political or military action of a State, against the sovereignty, territorial integrity or political independence of a State in violation of the Charter of the United Nations.] any of the following acts committed by [an individual] [a person] who is in a position of exercising control or capable of directing the political or military action of a State:

   (a) initiating, or

   (b) carrying out

Variation 1

[an armed attack] [the use of armed force] [a war of aggression] [a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing] against another State [against another State, or depriving other peoples of their rights to self-determination], in [manifest] contravention of the Charter of the United Nations, to violate [to threaten or to violate] the [sovereignty,] territorial integrity or political independence of that State [or the inalienable rights of those people] [except when this is required by the principle of equal rights and self-determination of peoples and the rights of individual or collective self-defence]

Variation 2

an armed attack directed by a State against the territorial integrity or political independence of another State when this armed attack was undertaken in manifest contravention of the Charter of the United Nations with the object or result of establishing a military occupation of, or annexing, the territory of such other State or part thereof by armed forces of the attacking State.

Variation 3

Add the following paragraph to paragraph 1, variation 1, above:

2. Provided that the acts concerned or their consequences are of sufficient gravity, [acts constituting aggression include] [the use of the armed force includes] [are] the following [whether preceded by a declaration of war or not]:

(a) The invasion or attack by the armed forces of a State of a territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;

(b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

(c) The blockade [of the ports or coasts] of a State by the armed forces of another State;

(d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;

(e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;

(f) The action of a State in allowing its territory, which it placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;

(g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed before, or its substantial involvement therein.

3. When an attack [the use of armed force] under paragraph 1 has been committed, the

(a) planning

(b) preparing, or

(c) ordering

thereof by an individual who is in a position of exercising control or capable of directing the political or military action of a State shall also constitute a crime of aggression.

Option 2

For the purposes of the present Statute and subject to a prior determination by the United Nations Security Council of an act of aggression by the State concerned, the crime of aggression means any of the following acts: planning, preparing, initiating or carrying out a war of aggression.

Conditions for the exercise of jurisdiction

Option 1

1. The Court shall exercise its jurisdiction with regard to the crime of aggression in accordance with the provisions of article 13 of the Statute.

2. The Security Council shall determine the existence of an act of aggression perpetrated by the State whose national is concerned in accordance with the relevant provisions of the Charter of the United Nations before proceedings take place in the Court with regard to the crime of aggression.

3. The Security Council, acting in accordance with article 13 (b) of the Statute of the International Criminal Court, shall first make a decision establishing that an act of aggression has been committed by the State whose national is concerned.

4. The Court, upon receipt of a complaint relating to the crime of aggression under article 13 (a) or (c), shall, with due regard to the provisions of Chapter VII of the Charter of the United Nations, first request the Security Council to determine whether or not an act of aggression has been committed by the State whose national is concerned.

5. The Security Council shall make a decision upon this request within [6] [12] months.

6. Notification of this decision shall be made by letter from the President of the Security Council to the President of the International Criminal Court without delay.

Variation 1

7. In the absence of a decision of the Security Council within the time-frame referred to in paragraph 5 above, the Court may proceed.

8. The decision of the Security Council under paragraph 5 above shall not be interpreted as in any way affecting the independence of the Court in the exercise of its jurisdiction with regard to the crime of aggression.

Variation 2

7. Notwithstanding the provisions of paragraph 2 above, in the absence of a decision by the Security Council within the time-frame referred to in paragraph 5 above, the Court shall, with due regard to the provisions of articles 12, 14 and 24 of the Charter, request the General Assembly of the United Nations to make a recommendation.

8. The General Assembly shall make such a recommendation within [12] months.

9. Notification of this recommendation shall be made by letter from the President of the General Assembly to the President of the International Criminal Court without delay.

10. In the absence of such a recommendation within the time-frame referred to in paragraph 8 above, the Court may proceed.

11. The decision of the Security Council under paragraph 5 above or the recommendation of the General Assembly under paragraph 8 above shall not be interpreted as in any way affecting the independence of the Court in the exercise of its jurisdiction with regard to the crime of aggression.

Option 2

1. The Court shall exercise its jurisdiction with regard to the crime of aggression subject to a determination by the Security Council in accordance with article 39 of the Charter, that an act of aggression has been committed by the State concerned.

2. When a complaint related to the crime of aggression has been lodged, the Court shall first seek to discover whether a determination has been made by the Security Council with regard to the alleged aggression by the State concerned and, if not, it will request, subject to the provisions of the Statute, the Security Council to proceed to such a determination.

3. If the Security Council does not make such a determination or does not make use of article 16 of the Statute within 12 months of the request, the Court shall proceed with the case in question.

Option 3[1]

For the purposes of the present Statute and subject to a prior determination by the United Nations Security Council of an act of aggression by the State concerned, the crime of aggression means any of the following acts: planning, preparing, initiating or carrying out a war of aggression.

Explanatory note

A. On the definition of the crime of aggression

(i) The previous text represents an attempt to consolidate, to the extent possible, the proposals already made on the question of definition of the crime of aggression for the purpose of the Rome Statute.

(ii) The text accepts two basic principles, which seem to enjoy widespread support: the principle under which the crime of aggression is committed by political or military leaders of a State; and the principle that the planning, preparation or ordering of aggression should be criminalized only when an act of aggression takes place.

(iii) Option 1 presents three variations after the first sentence in paragraph 1. These variations correspond to most of the various approaches that were suggested with regard to definition: general definition, definition based on the object or result of occupying or annexing the territory of the attacked State or part thereof, general definition plus detailed list of acts taken from General Assembly resolution 3314 (XXIX) of 14 December 1974.

(iv) Option 2 covers both the definition and the relationship with the Security Council, and is based, in its definitional part, on article 6 (a) of the Charter of the International Military Tribunal of Nuremberg.

(v) On some points, square brackets appeared to be inevitable to show the different formulas that were suggested. Where part of the text is added in square brackets, this is not intended to indicate lesser support for that part.

B. On the conditions for the exercise of jurisdiction

(i) The text is an attempt to consolidate all the proposals circulated so far on this issue, taking also into account views expressed by delegations from the floor.

(ii) Option 1 is an attempt to reflect views seeking to reconcile the prerogatives of the Security Council with the independence of the Court.

Hence, it is founded on the following considerations:

- Article 5 (2) of the Statute of the International Criminal Court stipulates that the definition of the *crime of aggression* and the conditions under which the Court shall exercise jurisdiction with respect to this crime shall be consistent with the relevant provisions of the Charter of the United Nations;
- As set out in article 39 of the Charter, the Security Council has the responsibility for establishing the existence of an *act of aggression;*

[1] Option 3 is duplicated and appears also under the definition of the crime of aggression since it covers the two issues, namely, the definition of the crime and conditions for the exercise of jurisdiction.

- The Court exercises its jurisdiction over persons on the *crime of aggression* (articles 1, 5 and 25 of the Statute);
- The *crime of aggression* presupposes the existence of an *act of aggression*;
- The trigger mechanism should therefore recognize the primary responsibility of the Security Council to establish the existence of an *act of aggression* in accordance with the relevant provisions of the Charter;
- Variation 2 is based on the assumption that if, for any reason, the Security Council cannot make a decision, the Charter itself provides for an internal mechanism to address the issue.

(iii) Option 3 embodies both the definition and the relationship between the Court and the Security Council, and is based in its conditional part on the proposal as contained in article 23 (2) of the International Law Commission draft statute for the International Criminal Court.